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(4) Whole mortgages or other whole loans, or interests in mortgages or loans, except:

- (i) Acquired member assets;
- (ii) Investments described in § 940.3(e) of this chapter;
- (iii) Marketable direct obligations of state, local, or tribal government units or agencies, having at least the second highest credit rating from an NRSRO, where the purchase of such obligations by the Bank provides to the issuer the customized terms, necessary liquidity, or favorable pricing required to generate needed funding for housing or community lending;
- (iv) Mortgage-backed securities, or asset-backed securities collateralized by manufactured housing loans or home equity loans, that meet the definition of the term "securities" under 15 U.S.C. 77b(a)(1); and
- (v) Loans held or acquired pursuant to section 12(b) of the Act (12 U.S.C. 1432(b)).

(b) *Foreign currency or commodity positions prohibited.* A Bank may not take a position in any commodity or foreign currency. A Bank may participate in consolidated obligations denominated in a currency other than U.S. Dollars or linked to equity or commodity prices, provided that the Bank meets the requirements of § 966.8(d) of this chapter, and all other applicable requirements related to issuing consolidated obligations.

[65 FR 43985, July 17, 2000, as amended at 66 FR 8320, Jan. 30, 2001; 67 FR 12853, Mar. 20, 2002]

§ 956.4 Risk-based capital requirement for investments.

Each Bank shall hold retained earnings plus general allowance for losses as support for the credit risk of all investments that are not rated by an NRSRO, or are rated or have a putative rating below the second highest credit rating, in an amount equal to or greater than the outstanding balance of the investments multiplied by:

- (a) A factor associated with the credit rating of the investments as determined by the Finance Board on a case-by-case basis for rated assets to be sufficient to raise the credit quality of the asset to the second highest credit rating category; and

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- (b) 0.08 for assets having neither a putative nor actual rating.

[65 FR 43985, July 17, 2000, as amended at 67 FR 12853, Mar. 20, 2002]

§ 956.5 Authorization for derivative contracts and other transactions.

A Bank may enter into the following types of transactions:

- (a) Derivative contracts;
- (b) Standby letters of credit, pursuant to the requirements of part 960 of this chapter;
- (c) Forward asset purchases and sales;
- (d) Commitments to make advances; and
- (e) Commitments to make or purchase other loans.

[66 FR 8320, Jan. 30, 2001, as amended at 67 FR 12853, Mar. 20, 2002]

§ 956.6 Use of hedging instruments.

(a) *Applicability of GAAP.* Derivative instruments that do not qualify as hedging instruments pursuant to GAAP may be used only if a non-speculative use is documented by the Bank.

(b) *Documentation requirements.* (1) Transactions with a single counterparty shall be governed by a single master agreement when practicable.

(2) A Bank's agreement with the counterparty for over-the-counter derivative contracts shall include:

- (i) A requirement that market value determinations and subsequent adjustments of collateral be made at least on a monthly basis;
- (ii) A statement that failure of a counterparty to meet a collateral call will result in an early termination event;
- (iii) A description of early termination pricing and methodology, with the methodology reflecting a reasonable estimate of the market value of the over-the-counter derivative contract at termination (standard International Swaps and Derivatives Association, Inc. language relative to early termination pricing and methodology may be used to satisfy this requirement); and

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(iv) A requirement that the Bank's consent be obtained prior to the transfer of an agreement or contract by a counterparty.

[66 FR 8321, Jan. 30, 2001]

PART 960—STANDBY LETTERS OF CREDIT

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AUTHORITY: 12 U.S.C. 1422b, 1429, 1430, 1430b, 1431.

SOURCE: 63 FR 65699, Nov. 30, 1998, unless otherwise noted. Redesignated at 65 FR 8256, Feb. 18, 2000, and further redesignated at 67 FR 12853, Mar. 20, 2002.

§ 960.1 Definitions.

As used in this part:

Applicant means a person or entity at whose request or for whose account a standby letter of credit is issued.

Beneficiary means a person or entity who, under the terms of a standby letter of credit, is entitled to have its complying presentation honored.

Confirm means to undertake, at the request or with the consent of the issuer, to honor a presentation under a standby letter of credit issued by a member or housing associate.

Document means a draft or other demand, document of title, investment security, certificate, invoice, or other record, statement, or representation of fact, law, right, or opinion that is presented under the terms of a standby letter of credit.

Investment grade means:

(1) A credit quality rating in one of the four highest credit rating categories by an NRSRO and not below the fourth highest credit rating category by any NRSRO; or

(2) If there is no credit quality rating by an NRSRO, a determination by a Bank that the issuer, asset or instrument is the credit equivalent of investment grade using credit rating stand-

ards available from an NRSRO or other similar standards.

Issuer means a person or entity that issues a standby letter of credit.

Presentation means delivery of a document to an issuer, or an entity that has undertaken a confirmation at the request or with the consent of the issuer, for the giving of value under a standby letter of credit.

Residential housing finance means:

(1) The purchase or funding of "residential housing finance assets," as that term is defined in §950.1 of this chapter; or

(2) Other activities that support the development or construction of residential housing.

SHFA associate means a housing associate that is a "state housing finance agency," as that term is defined in §926.1 of this chapter, and that has met the requirements of §926.3(b) of this chapter.

Standby letter of credit means a definite undertaking by an issuer on behalf of an applicant that represents an obligation to the beneficiary, pursuant to a complying presentation: to repay money borrowed by, advanced to, or for the account of the applicant; to make payment on account of any indebtedness undertaken by the applicant; or to make payment on account of any default by the applicant in the performance of an obligation. The term *standby letter of credit* does not include a commercial letter of credit, or any short-term self-liquidating instrument used to finance the movement of goods.

[63 FR 65699, Nov. 30, 1998, as amended at 65 FR 8265, Feb. 18, 2000; 65 FR 44431, July 18, 2000. Redesignated and amended at 67 FR 12853, Mar. 20, 2002]

§ 960.2 Standby letters of credit on behalf of members.

(a) *Authority and purposes.* Each Bank is authorized to issue or confirm on behalf of members standby letters of credit that comply with the requirements of this part, for any of the following purposes:

(1) To assist members in facilitating residential housing finance;

(2) To assist members in facilitating community lending;

(3) To assist members with asset/liability management; or